

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, AUGUST 12, 2025

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, August 12, 2025, at 12:30 p.m., in Council Chambers, with the following present:

Douglas B. Hudson	President
John L. Rieley	Vice President
Jane Gruenebaum	Councilwoman
Steve C. McCarron	Councilman
Todd F. Lawson	County Administrator
J. Everett Moore, Jr.	County Attorney

The Invocation and Pledge of Allegiance were led by Mr. Hudson.

**Call to
Order**

Mr. Hudson called the meeting to order.

**M 346 25
Approve
Agenda**

Mr. Lawson reported that under 1:30 p.m. Public Hearings, the first hearing, CU2395 filed on behalf of Breeze-A-Bella Land Group, LLC, needs to be removed. A Motion was made by Mr. McCarron, seconded by Ms. Gruenebaum to approve the Agenda as amended.

Motion Adopted: 4 Yeas, 1 Absent

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Absent; Mr. Rieley, Yea;
Mr. Hudson, Yea**

Minutes

The minutes from July 29, 2025, were approved by consensus.

**Correspon-
dence**

There was no correspondence.

Public comments were heard.

**Public
Comments**

Ms. June Rose Futchter thanked the Council for their support for her annual bike ride.

Ms. Alison White spoke about the approval process for large applications.

**Appoint-
ment/BOA**

Mr. Lawson reported that an appointment is needed for the Board of Adjustments and Appeals for District 3. Ms. Gruenebaum is recommending Mr. Phil Lertora.

**M 347 25
Approve
BOA
Appoint-
ment**

A Motion was made by Ms. Gruenebaum, seconded by Mr. McCarron, which be it moved that the Sussex County Council approves the appointment of Mr. Phil Lertora to the Sussex County Board of Adjustments and Appeals effective immediately for a term of four years.

Motion Adopted: 4 Yeas, 1 Absent

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Absent; Mr. Rieley, Yea;
Mr. Hudson, Yea**

**Adminis-
trator's
Report**

Mr. Lawson read the following information in his Administrator's Report:

1. FY 2026 Human Service Grant Program

Applications for the Fiscal Year 2026 Human Service Grant Program are now being accepted. The Human Service Grant Program provides grants to county-wide nonprofit agencies for the purpose of enhancing health and human services which contribute to a safe, healthy, and self-sufficient community. Funds provide grants that assist organizations with resources in support of programs or capital purchases.

To be eligible for a grant, organizations must fill out an application which is available on the County's website at www.sussexcountyde.gov.

The deadline for filing grant requests is Tuesday, September 30th.

2. John Brady

It is with great sadness that we inform you that pensioner John Brady passed away on Sunday, August 10, 2025. Mr. Brady began his career with Sussex County in January 2001 serving as the Register in Chancery, he also served as Recorder of Deeds, Clerk of the Peace, and Part-time Chief Deputy Register of Wills for a total of 14 years of service. We would like to extend our condolences to the Brady family.

[Attachments to the Administrator's Report are not attached to the minutes.]

**Aeronau-
tical
Obstruction**

Mark Parker, Assistant County Engineer, presented a balancing change order and project closeout for aeronautical obstruction removal project for Council's consideration.

**M 348 25
Approve CO
& Project
Closeout**

A Motion was made by Mr. Rieley, seconded by Ms. Gruenebaum, that it be moved based on the recommendation of the Sussex County Engineering Department that final balancing change order no. 1 for contract A25-26, Aeronautical Obstruction Removal be approved decreasing the contract amount by \$869.31 and granting project closeout be approved on June 30, 2025 with any held retainages released in according with contract

provisions.

Motion Adopted: 4 Yeas, 1 Absent

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Absent; Mr. Rieley, Yea;
Mr. Hudson, Yea**

EMS Station 101 & 111 Amendment Mark Parker, Assistant County Engineer, presented amendment no. 6 and amendment no. 1 for EMS paramedic stations – Lincoln Station 101 & Milton Station 111 for Council’s consideration.

M 349 25 Approve Amendment No. 6 A Motion was made by Mr. Rieley, seconded by Ms. Gruenebaum, be it moved based upon the recommendation of the Sussex County Engineering Department, that amendment no. 6 to the architectural services contract with George, Miles & Buhr be approved in the amount not to exceed \$52,640.00 for additional design and construction related services associated with the future Lincoln and Milton EMS stations.

Motion Adopted: 4 Yeas, 1 Absent

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Absent; Mr. Rieley, Yea;
Mr. Hudson, Yea**

M 350 25 Approve Amendment No. 1 A Motion was made by Mr. Rieley, seconded by Ms. Gruenebaum, be it moved based upon the recommendation of the Sussex County Engineering Department, that amendment no. 2 to the EJCDC 2024 miscellaneous engineering base contract with George, Miles & Buhr, be approved in the amount not to exceed \$49,500.00 for additional design related services associated with the future Lincoln and Milton EMS stations.

Motion Adopted: 4 Yeas, 1 Absent

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Absent; Mr. Rieley, Yea;
Mr. Hudson, Yea**

Grant Requests Ms. Torbert presented grant requests for Council’s consideration.

M 351 25 Community Resource Center, Inc. A Motion was made by Ms. Gruenebaum, seconded by Mr. McCarron to give \$2,500 (\$2,500 from Ms. Gruenebaum’s Councilmanic Grant Account) to Community Resource Center, Inc. for their safe harbor homeless day shelter.

Motion Adopted: 3 Yeas, 2 Absent

Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;

**Mr. Lloyd, Absent; Mr. Rieley, Absent;
Mr. Hudson, Yea**

M 352 25 **A Motion was made by Ms. Gruenebaum, seconded by Mr. Rieley to give**
Cape **\$1,500 (\$500 each from Ms. Gruenebaum's, Mr. Hudson's, and Mr. Rieley's**
Henlopen **Councilmanic Grant Accounts) to Cape Henlopen Senior Center for their**
Senior **Rehoboth Concert band fundraiser.**
Center

Motion Adopted: 4 Yeas, 1 Absent

Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Absent; Mr. Rieley, Yea;
Mr. Hudson, Yea

M 353 25 **A Motion was made by Ms. Gruenebaum, seconded by Mr. McCarron to**
Speak Out **give \$500 (\$500 from Ms. Gruenebaum's Councilmanic Grant Account) to**
Against **the Speak Out Against Hate Association for their youth education**
Hate **programs.**
Association

Motion Adopted: 3 Yeas, 2 Absent

Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Absent; Mr. Rieley, Absent;
Mr. Hudson, Yea

M 354 25 **A Motion was made by Ms. Gruenebaum, seconded by Mr. McCarron to**
Sussex Land **give \$3,000 (\$1,000 from Ms. Gruenebaum's Councilmanic Grant Account,**
Foundation, **\$1,000 from Mr. Rieley's Councilmanic Grant Account, \$500 from Mr.**
Inc. **Hudson's Councilmanic Grant Account and \$500 from Mr. McCarron's**
Councilmanic Grant Account) to the Sussex Land Foundation, Inc. for their
Dogfish Dash event.

Motion Adopted: 4 Yeas, 1 Absent

Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Absent; Mr. Rieley, Yea;
Mr. Hudson, Yea

M 355 25 **A Motion was made by Ms. Gruenebaum, seconded by Mr. Rieley to give**
Unique **\$500 (\$500 from Ms. Gruenebaum's Councilmanic Grant Account) to**
Mind **Unique Mind Changing Lives Inc. for their summer healthy eating food**
Changing **pantry.**
Lives Inc.

Motion Adopted: 4 Yeas, 1 Absent

Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Absent; Mr. Rieley, Yea;
Mr. Hudson, Yea

M 356 25 **A Motion was made by Ms. Gruenebaum, seconded by Mr. McCarron to give \$2,000 (\$500 each from Ms. Gruenebaum's, Mr. Rieley's, Mr. Autism Delaware, Inc. Hudson's and Mr. McCarron's Councilmanic Grant Accounts) to Autism Delaware, Inc. for their snowflake soiree 2025.**

Motion Adopted: 4 Yeas, 1 Absent

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Absent; Mr. Rieley, Yea;
Mr. Hudson, Yea**

M 357 25 **A Motion was made by Ms. Gruenebaum, seconded by Mr. Rieley to give Friends of \$1,000 (\$500 from Ms. Gruenebaum's Councilmanic Grant Account and Prime Hook \$500 from Mr. McCarron's Councilmanic Grant Account) to Friends of National Wildlife Refuge, Inc. for their family educational projects.**

Motion Adopted: 4 Yeas, 1 Absent

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Absent; Mr. Rieley, Yea;
Mr. Hudson, Yea**

M 358 25 **A Motion was made by Ms. Gruenebaum, seconded by Mr. Rieley to give DE Law \$2,000 (\$500 each from Ms. Gruenebaum's, Mr. McCarron's, Mr. Hudson's Enforcement Thank You Ride Association for their Thank You Ride 2025.**

Motion Adopted: 4 Yeas, 1 Absent

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Absent; Mr. Rieley, Yea;
Mr. Hudson, Yea**

M 359 25 **A Motion was made by Ms. Gruenebaum, seconded by Mr. Rieley to give Developing Artist Collaboration for their final phase of the 2025 West Side creative market renovation.**

Motion Adopted: 4 Yeas, 1 Absent

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Absent; Mr. Rieley, Yea;
Mr. Hudson, Yea**

Ord Intro **There were no Proposed Ordinances for introduction.**

Council **Mr. McCarron commented that there are many good organizations that**

Member Comments **apply for grants. He added that it is a tough decision, however, the funds have to last until next June.**

M 360 25 **At 12:58 p.m., a Motion was made by Mr. Rieley, seconded by Ms. Gruenebaum to enter into an Executive Session for the purpose of**
Go Into **discussing matters related to land acquisition and pending & potential**
Executive **litigation.**
Session

Motion Adopted: 4 Yeas, 1 Absent

Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Absent; Mr. Rieley, Yea;
Mr. Hudson, Yea

Executive Session **At 1:01 p.m., an Executive Session was held in Basement Caucus Room to discuss matters related to land acquisition. The Executive Session concluded at 1:29 p.m.**

M 361 25 **At 1:32 p.m., a Motion was made by Ms. Gruenebaum seconded by Mr. Rieley to come out of the Executive Session and go back into the Regular**
Reconvene **Session.**

Motion Adopted: 4 Yeas, 1 Absent

Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Absent; Mr. Rieley, Yea;
Mr. Hudson, Yea

M 362 25 **A Motion was made by Mr. McCarron, seconded by Ms. Gruenebaum to**
Approve **authorize the County Administrator to enter into negotiations, enter into a**
2025-G & **contract and proceed to closing on parcels 2025-G and 2025-H.**
2025-H

Motion Adopted: 4 Yeas, 1 Absent

Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Absent; Mr. Rieley, Yea;
Mr. Hudson, Yea

Rules **Mr. Moore read the rules of procedure for zoning hearings.**

M 363 25 **A Motion was made by Mr. Rieley, seconded by Mr. McCarron to allow**
CU2395 **Conditional Use No. 2395 filed on behalf of Breeze-A-Bella Land Group,**
Withdrawal **LLC to withdrawal and be noticed for a future hearing date.**

Motion Adopted: 4 Yeas, 1 Absent

Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Absent; Mr. Rieley, Yea;

Mr. Hudson, Yea

**Public
Hearing/
CU2537**

A Public Hearing was held for a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A GENERAL TRADE CONTRACTING BUSINESS WITH OFFICE AND STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 1.73 ACRES, MORE OR LESS” (property is lying the southeast side of Pettyjohn Road [S.C.R. 255], approximately 0.65 mile northeast of Prettyman Road [S.C.R. 254]) (911 Address: 18113 Prettyman Road, Milton) (Tax Map Parcel: 235-25.00-45.00) filed on behalf of Ryan Brower.

The Planning & Zoning Commission held a Public Hearing on the application on July 2, 2025. At the meeting of July 23, 2025, the Planning & Zoning Commission recommended approval of the application for the 7 reasons stated and subject to the 10 recommended conditions as outlined.

The Council found that Mr. Mark Davidson, with Pennoni, spoke on behalf of the Applicant, Mr. Ryan Brower, who was also present; that the property is located within the AR-1 (Agricultural Residential) Zoning District; that the application is requesting approval to operate a general trade contracting business with an office and storage; that the parcel is located on the east side of Pettyjohn Road, approximately 1.2 miles south of Harbeson Road, and approximately one mile north of Rt. 30; that the property contains 1.73 acres; that the Applicant and his wife have owned the property since 2017, however the home on the property has been in their family since the 1900s; that it is the original T. Walker Family Farm dwelling; that the dwelling is registered in the Bureau of Archaeology and Historic Preservation; that within the submitted exhibits was information provided by the Historic Preservation Office regarding the existing house; that the dwelling is for their family; that their business is located immediately behind the existing house; the property is currently improved with the existing dwelling, two outbuildings, driveways, parking areas, trash containment, landscaping, domestic well and septic system; that the site is bordered on the North, East, and South by existing agriculture lands owned by the Tyndall family, who are family members of the Brower’s; that the site is located directly across the street from a recently approved Conditional Use No. 2496 for Mr. and Mrs. Wade Hudson; that the site is located within a one mile radius of several other Conditional Uses; that according to the 2045 Future Land Use Map of the Sussex County Comprehensive Plan, the property is identified as being within the Low Density area, which is a rural area; that the proposed use is consistent with the guidelines of the Low Density area, as it provides a place to be primarily for personal service uses, proposing to be developed to serve the needs of a relatively small area, for primarily low density and medium density areas; that according to the 2020 Delaware Strategies for State Policies, the site is located within a Level 4 area; that the application is subject to the

**Public
Hearing/
CU2537
(continued)**

provisions of Articles 4 through 24 and Section 115-22 of the Sussex County Zoning Code; that Mr. and Mrs. Brower have been in business for over 10 year offering high quality heating and air conditioning services to Sussex and Kent County areas; that they have 10 employees, and are looking to add an additional 5 employees to their team; that the Site Plan reflects two accesses; that there is a private access that is paved with a driveway that leads to their residence and garage; that on the opposite side, there is an old farm easement that was deeded to the farmlands to allow access for the tractors; that Mr. Brower had designated the area as an access for the rear of the site; that the easement is made of crushed concrete; that the pole building for the business has been placed as far to the rear of the property that it could possibly be placed; that in that location, there are some existing parking spaces for employees; that he does have two office employees, who answer phones and take business orders; that there is an existing trash containment area which contain two dumpsters; that one dumpster is designated for the larger boxes that the air conditioning and heating systems arrive in, along with a smaller dumpster; that the dumpster area is proposed to be fenced, to provide screening to adjacent properties; that heating and air conditioning sale services and repair businesses are generally of a public or semi-public character, being essential and desirable for the general convenience of and welfare; that because of the nature of the use, the importance of its relationship to the Comprehensive Plan, and the possible impact on neighboring properties, it requires the exercise of the planning, judgement on the location and Site Plan; that everything on the Site Plan is existing, that nothing is being proposed; that the proposed use will not alter the character of the surrounding area, in any manner that substantial limits impairs or precludes the use of surrounding properties; that the property will have access from Prettyman Road; that there are no wetlands located on the property; that there are no endangered species on the property; that central water and sewer will be available in the future for the property; that Mr. Brower currently has an existing private well and septic system, which he will continue to use; that the property is not located within any Excellent Groundwater Recharge Areas; that the site is not located within a floodplain; that the site is located within the Milton Fire Department Service Area; that an Exhibit Book was submitted into the record, with proposed Conditions of Approval, which state that the use shall be limited to the general trade contracting business with an office and storage; that all business and storage will be located within the existing one-story building in the back; that there will be no outside storage of equipment or materials, to prevent pollution and environmental harm; that all used HVAC condensers and equipment, as well as the removing and recycling of air conditioning units will follow all Delaware State laws to ensure proper freon removal and responsible disposal of the unit components; that Mr. Brower has an existing sign, being less than 32 square feet in size; that he requested approval for one un-lit sign, two faced sign being 32 square feet on both sides be approved; that the hours of operation are proposed to be Monday through Friday from 7:30 a.m. until 5:00 p.m., and Saturdays from 8:00 a.m. until 12:00 p.m.; that there will be no

**Public
Hearing/
CU2537
(continued)**

operations on Sundays; that all security lighting will be downward screened; that the site is surrounded by family lands, with no proposed development in the future, as the family does not intend to develop the farms; that in the event the adjacent property would be developed, the Applicant would be willing to place a fence or landscaping to minimize impacts on neighbors; that there are woodlands located on the adjacent parcel to the rear of the property; that Mr. Brower hunts and would request that he be permitted to keep the view of the farmland and woodlands behind him, and that this would allow him and his family would still be able to walk around the land and the woods.

There were no public comments.

The Public Hearing and public record were closed.

**M 364 25
Amend
Condition E/
CU2537**

A Motion was made by Mr. McCarron, seconded by Ms. Gruenebaum to amend Condition E to add another sentence that reads “Except for after hours and Sunday service calls”.

Motion Adopted: 4 Yeas, 1 Absent

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Absent; Mr. Rieley, Yea;
Mr. Hudson, Yea**

**M 365 25
Adopt
Ordinance
No. 4011/
CU2537**

A Motion was made by Mr. McCarron, seconded by Ms. Gruenebaum to Adopt Ordinance No. 4011 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A GENERAL TRADE CONTRACTING BUSINESS WITH OFFICE AND STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 1.73 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning & Zoning Commission as follows and as amended by this Council:

1. The applicant operates an HVAC repair business from the site. His business has expanded to the point where a conditional use is now required.
2. The Applicant’s family owns the farmland that surrounds the site, and the Applicant and his family reside in the farmhouse on the property.
3. The use will occur within the existing outbuildings on the property.
4. The business use is located at the rear of the Applicant’s property, where it will have the least impact on any neighboring properties.
5. DelDOT has stated that the traffic generated by the proposed use will be diminutive and will not have a negative impact on the neighboring roadways.
6. The use of HVAC sales, service and repair business is of a public or

**M 365 25
Adopt
Ordinance
No. 4011/
CU2537
(continued)**

semi-public character that is desirable for the general convenience and welfare of the area and the County.

7. No parties appeared in opposition to the application.
8. This recommendation is subject to the following conditions:
 - a. The property shall be used for a general trade contracting business with an office and storage in addition to the Applicant's residence.
 - b. The use will occur within the existing outbuildings on the site.
 - c. The site shall not be permitted to become a junkyard that requires separate zoning and other approvals. Any HVAC equipment used shall be kept within a fenced and screened area, and none of it shall be permanently stored. The Applicant shall only store HVAC equipment it obtains as part of its repair and installation business.
 - d. One indirectly lighted sign shall be permitted. It shall not be larger than 32 square feet per side.
 - e. The hours of operation shall be between 7:30 a.m. and 5:00 p.m., Monday through Friday, and on Saturdays between 8:00 am and 12:00 p.m. on Saturdays. No Sunday hours shall be permitted. Except for after hours and Sunday service calls.
 - f. Any outdoor lighting on the site shall be downward screened so that it does not shine on neighboring properties or roadways.
 - g. Any dumpsters on the site shall be screened from the view of neighboring properties and roadways. The dumpster location shall be shown on the Final Site Plan.
 - h. The Applicant shall comply with any DelDOT requirements for entrance and roadway improvements.
 - i. Any violation of these conditions of approval may result in the termination of this Conditional Use.
 - j. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion Adopted: 4 Yeas, 1 Absent

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Absent; Mr. Rieley, Yea;
Mr. Hudson, Yea**

**Public
Hearing/
CU2511**

A Public Hearing was held on a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A GENERAL CONTRACTOR AND CONSTRUCTION BUSINESS WITH AN OFFICE, SHOWROOM, AND STORAGE INCLUDING VEHICLES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 0.46 ACRE, MORE OR LESS" (property is lying the north side of Clay Road [S.C.R. 269], approximately 0.43 mile west of Kings Highway [Rt. 9]) (911 Address: 33847 Clay Road, Lewes) (Tax Map Parcel: 335-12.06-56.00) filed on behalf of Paulina

**Public
Hearing/
CU2511
(continued)**

Owedyk.

The Planning & Zoning Commission held a Public Hearing on the application on July 2, 2025. At the meeting of July 23, 2025, the Planning & Zoning Commission recommended approval of the application for the 9 reasons stated and subject to the 13 recommended conditions as outlined.

The Council found that Mr. David Hutt, Esq., with Morris James LLP, spoke on behalf of the Applicant; that Paulina Owedyk was also present; that the application seeks to allow the operation of a general contractor and construction business with a pole building used for a garage and storage area, and office, a showroom, and vehicle storage; that the property is located across the street from Poore's Propane and Clean Delaware; that the Applicant purchased the property in 2021, where she immediately began making improvements to the property; that she cleaned up the property, renovated the residential home, constructed a pole building located behind the residential home, and various other improvements; that there is a parking area and fencing located on the site; that the site is located within Level 1 according to the State Strategies Map, being an area where the State investments and policies support and encourage a wide range of uses; that the site is located within the County's Coastal Area, according to the Future Land Use Map; that in the direction of Wescoats Corner, there are C-1 (General Commercial) zoned properties, which are located within Commercial Areas of the Future Land Use Map; that the zoning classification of the subject property is AR-1 (Agricultural Residential), as are the properties located immediately adjacent to the site; that to the left of the site, being about three properties down, there is a property located along Clay Road that is zoned B-1 (Neighborhood Business); that this property is the location of Progar & Company., P.A., a professional accounting office, as well as payroll professionals; that as one travels down Clay Road, towards Wescoats Corner, there are a host of C-1 (General Commercial) zoned properties; that in addition to those businesses and commercial uses, Sussex County staff identified 38 Conditional Use applications within a one mile radius of the site since 2011; that 31 of the applications were reported as approved; that there were two Conditional Uses not included within the 38, as their approvals predated 2011; that the location where Clean Delaware is located was approved as Conditional Use No. 278 on July 1, 1975, for an office and storage building; that in 2001, Conditional Use No. 1426 was adopted by County Council as Ordinance No. 1509 to add bulk propane storage to the same location; that there are two additional Conditional Uses along Clay Road, that were referenced by staff, being Conditional Use No. 2069, adopted by Ordinance 2494 in April 2017; that this Conditional Use was approved for a workout, exercise or yoga studio, located about three properties down from the site; that there currently is a hair artistry business in that location via Conditional Use No. 2132, adopted by Ordinance No. 2590 in July 2018; that there are no wetlands located on the property; that there is a rear portion of the property located

**Public
Hearing/
CU2511
(continued)**

within a Wellhead Protection Area, and therefore subject to Chapter 89; that per the FEMA Flood Maps, the property is located within Flood Zone X, being outside of the 500 year floodplain; that water is provided through an on-site well; that the Sussex County Engineering Department evaluated the application, and identified the property as being within a Tier 1 sewer district; that DelDOT responded with a Service Level Evaluation Response, indicating that the traffic impact would be diminutive, being less than 50 vehicle trips per day; that presently, there are no employees of Basement Unlimited, other than the Applicant; that the business uses subcontractors as part of their general contracting business; that occasionally, the subcontractors will visit the site to pick up or drop off things at the site; that the business takes place in the building located behind the residential building on the site; that there is large garage door and one single access door on the right of the building, and two access doors located on the left of the building, leading to the proposed office area; that there is a vinyl fence surrounding the property, which separates the residential portion from the remainder of the site; that the fencing extends down both side line boundaries, and across the rear boundary line; that the fencing separates the use from the adjacent properties; that the same fencing provides screening for the dumpster area; that there are designated parking spots; that the proposed use is of public character by providing services to the area, similar to the other commercial Conditional Uses in the area; that within the project book materials, there were six letters of support provided; that the three neighbors immediately to the right, and the two neighbors immediately to the left of the property have signed letters of support; that Progar & Company, P.A. provided a letter of support, as well as another neighbor located further down Clay Road; that all of these letters came from properties located within close proximity to the site; that proposed Condition B it stated there will be no outside storage; that proposed Condition F stated that the fence would be maintained through the duration of the of the Conditional Use, and would be shown on the Final Site Plan; that proposed Condition H stated the hours of operation would be Monday through Friday from 6:00 a.m. until 6:00 p.m., and Saturdays from 7:00 a.m. until 3:00 p.m.; that no Sunday hours are proposed; that proposed Condition I requested approval for two signs, with one sign being a 32 sq. ft. indirectly illuminated on premise sign; that Condition C states that there are no retail sales; that his client does not have retail sales but clients do come there to make selections; and based on the Comprehensive Plan, the Zoning Code, the nature and character of the area, including the mentioned support letters from immediate neighbors, the Applicant requested that the Council recommend approval of the application with the proffered conditions.

There were no public comments.

The Public Hearing and public record were closed.

A Motion was made by Ms. Gruenebaum, seconded by Mr. McCarron to

**M 366 25
Adopt
Ordinance
No. 4012/
CU2511**

Adopt Ordinance No. 4012 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A GENERAL CONTRACTOR AND CONSTRUCTION BUSINESS WITH AN OFFICE, SHOWROOM, AND STORAGE INCLUDING VEHICLES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 0.46 ACRE, MORE OR LESS” for the reasons and conditions given by the Planning & Zoning Commission as follows:

- 1. The use is situated on a property along Clay Road. The office use will occur within an existing former residence, and the storage will occur within an existing pole building on the property. With the conditions and stipulations of approval, the use will not have a negative impact on the neighboring properties.**
- 2. There are other commercial, and business uses in this area. On Clay Road, there is a property that is zoned B-1 with an accounting office, and there are other conditional uses including offices, storage, a bulk storage propane facility, a yoga and exercise facility, and a hair studio. This site is also near Westcoats Corner and the variety of business and commercial uses that exist near that intersection. This conditional use is appropriate for this location along Clay Road.**
- 3. No retail sales will occur from the property.**
- 4. Most of the work is offsite, so there is not a lot of activity that occurs on this site during the day.**
- 5. DelDOT has stated that the use will have a “Diminutive” impact upon traffic and area roadways. The use will not have an adverse impact on the traffic or area roadways.**
- 6. This area of Sussex County has a need for small, general contracting businesses such as this one. This is an appropriate, convenient location for such a use.**
- 7. A portion of the property is located within a Wellhead Protection Area and will comply with the requirements of Chapter 89 of the Sussex County Code.**
- 8. The site is served by an on-site well and central sewer provided by Sussex County.**
- 9. The record contains six (6) letters in support of the Application from neighboring property owners. No parties appeared in opposition to this application.**
- 10. This recommendation is subject to the following conditions:**
 - a. The use shall be limited to a general contractor business with an office and storage associated with that use.**
 - b. There shall not be any outside storage of construction materials on the site.**
 - c. No retail sales shall occur from the site.**
 - d. All lighting on the site shall be downward screened so that it does not shine on neighboring properties or roadways.**
 - e. Any dumpsters on the site must be screened from the view of neighboring properties and roadways.**

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(continued)**

- f. The existing fence surrounding the site shall be depicted on the Final Site Plan and it shall be maintained at all times.**
- g. The applicant shall comply with all DelDOT requirements for entrance and roadway improvements.**
- h. The hours of operation shall be Monday through Friday from 6:00 a.m. until 6:00 p.m. and from 7:00 am until 3:00 pm on Saturdays. No Sunday hours shall be permitted.**
- i. One lighted sign shall be permitted on the site along Clay Road. It shall be no larger than 32 square feet per side. One on-premises wall sign shall be permitted on the pole building. It shall not be larger than 150 square feet in size.**
- j. All vehicle parking areas shall be clearly shown on the Final Site Plan and clearly marked on the site itself. All vehicles must only be parked within the designated areas.**
- k. No junked, inoperable, or untitled vehicles or equipment shall be located on the site.**
- l. Failure to comply with any of these conditions shall be grounds for the termination of the Conditional Use approval.**
- m. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

Motion Adopted: 4 Yeas, 1 Absent

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Absent; Mr. Rieley, Yea;
Mr. Hudson, Yea**

**M 367 25
Adjourn**

A Motion was made by Mr. Rieley, seconded by Ms. Gruenebaum to adjourn at 2:15 p.m.

Motion Adopted: 4 Yeas, 1 Absent

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Absent; Mr. Rieley, Yea;
Mr. Hudson, Yea**

Respectfully submitted,

**Tracy N. Torbert
Clerk of the Council**

{An audio recording of this meeting is available on the County's website.}